



AFFIDAVIT OF MATTHEW J. PEIRCE, ESQ.

RECEIVED

JAN 31 2005

## OFFICE OF PETITIONS

STATE OF NEVADA )  
:ss  
COUNTY OF CLARK )

MATTHEW J. PEIRCE, ESQ., being first duly sworn, deposes and says:

1. That your Affiant is an attorney duly licensed to practice law in the State of Nevada and before the U.S. Patent and Trademark Office (PTO) and whose law firm acted as counsel for the applicant in this matter.

2. That your Affiant has personal knowledge of the matters contained herein and if called as a witness could competently testify thereto under oath.

3. That your Affiant became aware that there were problems with this case, application number 09/833,502, when it was brought to your affiant's attention by the Patent and Trademark Office in mid-to late July, 2004.

4. Both a notice of correction, and subsequently, a notice of abandonment, were sent out for this case by the Patent and Trademark Office.

5. These notices, sent by the PTO, were not handled properly by my office, and thus, were never seen by your affiant. Specifically, it is believed a particular secretary did not handle the file properly and thus, the application went abandoned. This particular secretary had been handling your affiant's patent paperwork and incoming mail and your affiant was reliant on her to process, handle, and prepare various forms for patent applications.

1 Furthermore, this secretary was reasonably trained to accomplish her  
2 tasks and your affiant was prudent and careful to always check up on  
3 various cases that were handled through his office.

4 6. Various other cases that have been handled by the same  
5 secretary have also been found to be "abandoned" for various reasons,  
6 and these have been and will be the subject of petitions to revive  
7 under the "unintentional" standard. This is the reason that your  
8 affiant has waited a few months before filing said "petition to  
9 revive - unintentional standard."

10 7. The subject matter of the "notice of correction" was simple  
11 enough that it could have been handled by me with about ten minutes  
12 of work, and thus, your affiant propounds that this is *prima facie*  
13 evidence showing that this application was "unintentionally  
14 abandoned."

15 8. This application was unintentionally abandoned, and thus,  
16 your affiant asks that this petition be granted.

17 FURTHER AFFIANT SAYETH NAUGHT



19 MATTHEW J. PEARCE, ESQ.

21 SUBSCRIBED and SWORN before me this  
22 30 day of December, 2004.

23 LaQuetha Mason  
NOTARY PUBLIC in and for said County  
and State

